

Practitioner's Docket No. MPI98-052P1RDV10DV1M

USSN: 10/786,501

REMARKS

Claims 49-60 and 63-64 were pending in the present application. Claims 1-48 had been previously canceled, and claims 61-62 had been previously withdrawn. Claims 49 and 55 have been amended herein, accordingly, claims 49-60 and 63-64 will be pending upon entry of the instant amendment. Any cancellation of the claims should in no way be construed as an acquiescence to any of the Examiner's rejections and was done solely to expedite prosecution of the application. No new matter has been added, and Applicants submit that all of the claims are now in condition for allowance.

SPECIFICATION

The Examiner objected to the specification because the status of the priority applications listed in the Related Applications paragraph on page 1 was not updated. Applicants have updated this paragraph, thereby obviating the Examiner's objection.

The Examiner additionally objected to the specification because it contained embedded hyperlinks. Applicants have amended the specification to remove all hyperlinks as requested by the Examiner, thereby obviating the Examiner's objection.

The Examiner additionally objected to the specification because the Examiner considered the title to be non-descriptive. Applicants have amended the title to read "CARDIOVASCULAR SYSTEM ASSOCIATED PROTEIN KINASE 3 (CSAPK-3) ANTIBODIES", thereby obviating the Examiner's objection.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the above-recited objections to the specification.

SEQUENCE LISTING

The Examiner objected to the sequence listing because the Examiner believes that Applicants have not submitted a statement that the paper copy and the CRF are identical and that no new matter has been introduced. Applicants respectfully direct the Examiner to the "Submission of "Sequence Listing", Computer Readable Copy, and/or Amendment Pertaining Thereto for Biotechnology Invention Containing Nucleotide and/or Amino Acid Sequence" form

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which was submitted by Applicants on February 25, 2004 (a copy of which is enclosed herewith) which clearly states that:

- i) Each computer readable form submitted in this application, including those forms requested to be transferred from applicant's other application, is the same as the "Sequence Listing" to which it is indicated to relate.
- ii) All papers accompanying this submission, or for which a request for transfer from applicants' other application, introduce no new matter.

Applicants believe that they have obviated the Examiner's rejection to the Sequence Listing, accordingly, Applicants respectfully request reconsideration and withdrawal of the above-recited objection to the sequence listing.

Rejection of Claims 49-60 and 63-64 under 35 U.S.C. §112, first paragraph

Claims 49-60 and 63-64 were rejected under 35 U.S.C §112, first paragraph, “[a]s failing to comply with the written description requirement.” Specifically, the Examiner states “There are no functional requirements for the polypeptide encoded by a nucleotide sequence that is at least 95% identical to the sequence contained in the plasmid deposited with ATCC as Accession number 203309.” Applicants note, however, that this rejection should only apply to claims 49-54 and 63 as only these claims recite “a polypeptide which is encoded by a nucleic acid molecule comprising a nucleotide sequence which is at least 95% identical to a nucleic acid comprising the nucleotide sequence contained in the plasmid deposited with the ATCC as Accession number 203309”.

Applicants respectfully traverse this rejection, however in the interest of expediting prosecution, and in no way acquiescing to the Examiner's rejection, Applicants have canceled part c) of claim 49, thereby obviating the Examiner's rejection. Accordingly, Applicants respectfully request reconsideration and withdrawal of the foregoing 35 U.S.C. § 112, first paragraph rejection over claims 49-60 and 63-64.

Rejection of Claims 49-60 and 63-64 under 35 U.S.C. §112, first paragraph

Claims 49-60 and 63-64 are rejected under 35 U.S.C. §112, first paragraph, “[b]ecause the specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to use the invention, because the specification does not provide evidence that the claimed biological materials are (1) known and readily available to the public;

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(2) reproducible from the written description". Since Applicants have deleted all reference to the ATCC deposit from the currently pending claims, Applicants submit that the rejection has been obviated. Therefore, Applicants respectfully request reconsideration and withdrawal of the foregoing 35 U.S.C. §112, first paragraph rejection over claims 49-60 and 63-64.

Rejection of Claims 49-51, 53-57, 59-60 and 63-64 under 35 U.S.C. §112, first paragraph

Claims 49-51, 53-57, 59-60 and 63-64 were rejected under 35 U.S.C §112, first paragraph, because "[t]he specification, while being enabling for an isolated antibody that binds to amino acid residues 5-164 of SEQ ID NO:8, an isolated antibody, or fragment thereof, that specifically binds to (a) any polypeptide comprising the amino acid sequence set forth in SEQ ID NO:8, (b) any polypeptide encoded by the nucleic acid molecule comprising the nucleotide sequence set forth in SEQ ID NO:7 or 9, does not reasonably provide enablement for an isolated antibody, or fragment thereof, that specifically binds to (c) any polypeptide encoded by a nucleic acid molecule comprising the nucleotide sequence contained in the plasmid deposited with ATCC as Accession Number 203309."

Applicants respectfully traverse this rejection; however in the interest of expediting prosecution, and in no way acquiescing to the Examiner's rejection, Applicants have canceled part c) of claim 49 and part c) of claim 55, thereby obviating the Examiner's rejection. Accordingly, Applicants respectfully request reconsideration and withdrawal of the foregoing 35 U.S.C. § 112, first paragraph rejection over claims 49-51, 53-57, 59-60 and 63-64.

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CONCLUSIONS

In view of the amendments and remarks made herein, Applicants respectfully submit that the objections and rejections presented by the Examiner are now overcome and that this application is in condition for allowance. If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned.

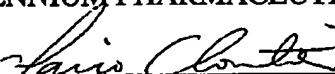
This paper is being filed timely as a request for a one month extension of time is filed concurrently herewith. No additional extensions of time are required. In the event any additional extensions of time are necessary, the undersigned hereby authorizes the requisite fees to be charged to Deposit Account No. 501668.

Entry of the remarks made herein is respectfully requested.

Respectfully submitted,

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